

106TH CONGRESS
2D SESSION

S. 3191

To create a Federal drug court program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 12 (legislative day, SEPTEMBER 22), 2000

Mr. TORRICELLI introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To create a Federal drug court program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drug Court Act of
5 2000”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **DRUG COURTS.**—The term “drug courts”
9 means a Federal district court of general jurisdiction
10 in a high drug crime district, as defined by the De-
11 partment of Justice, that will—

1 (A) expedite the criminal justice process
2 for eligible offenders until such time as they are
3 declared ineligible or selected for inclusion in a
4 drug court program; and

5 (B) maintain jurisdiction over the offend-
6 ers' cases before, during, and after participation
7 in the program.

8 (2) DRUG COURT PROGRAM.—The term “drug
9 court program” means a program for substance
10 abuse treatment and rehabilitation for eligible of-
11 fenders that—

12 (A) requires a successful plea agreement
13 immediately following conviction or in lieu of in-
14 carceration; and

15 (B) is operated by a drug court in a State
16 criminal justice system that has agreed to ac-
17 cept, for a fee per offender, all offenders se-
18 lected for inclusion in such a program by a
19 Federal drug court.

20 (3) ELIGIBLE OFFENDER.—The term “eligible
21 offender” means a person who meets the require-
22 ments established in section 4 of this Act.

23 (4) OFFICE.—The term “Office” means the Of-
24 fice of Justice Programs of the Department of Jus-
25 tice.

1 **SEC. 3. AUTHORIZATION OF DRUG COURTS.**

2 (a) ESTABLISHMENT OF DRUG COURTS.—10 Federal
3 district courts in the United States, as selected by the Of-
4 fice, are authorized to establish drug courts under this
5 Act.

6 (b) DRUG COURT RESPONSIBILITIES.—Each Federal
7 drug court shall enter into an agreement with a State drug
8 court program that will allow all eligible offenders to par-
9 ticipate in the drug court program of that State, in ex-
10 change for the payment of a fee equal to the amount of
11 the cost of the program for that offender. Each such
12 agreement shall be subject to the approval of the Office.

13 (c) OVERSIGHT.—Except as specified in this Act,
14 rules governing drug courts will be promulgated separately
15 by each participating Federal district court, with the ad-
16 vice of the Office, and subject to Department of Justice
17 approval.

18 **SEC. 4. ELIGIBLE OFFENDERS.**

19 (a) IN GENERAL.—An “eligible offender” means a
20 person who, by virtue of a Federal crime committed and
21 other factors that the drug court may consider, may be
22 considered for inclusion in the drug court program.

23 (b) PROGRAM PARTICIPANTS.—Drug court program
24 eligibility under this Act shall not be available to any of-
25 fender who—

26 (1) is accused of violent criminal offenses;

1 (2) is not accused of drug, drug-related, or
2 drug-motivated offenses;

3 (3) has previously been convicted of a Federal
4 or State violent felony offense; or

5 (4) for any other reason within the discretion of
6 the court, does not meet all requirements of the ap-
7 plicable drug court.

8 (b) ADDITIONAL ELIGIBILITY REQUIREMENTS.—In
9 addition to the criteria in subsection (a), no offender will
10 be considered eligible for participation in a drug court pro-
11 gram unless, following a reasonable investigation con-
12 ducted according to standards set by the court, and one
13 or more hearings before the court, consensus agreement
14 is achieved among the prosecutor, the defense counsel, and
15 the presiding judge, that the offender is a person who—

16 (1) currently suffers from a drug dependency;

17 (2) would benefit from the drug court program;

18 and

19 (3) is appropriate for inclusion in the drug
20 court program.

21 (c) INELIGIBLE OFFENDER HANDLING.—If at any
22 point before admission into the drug court program, an
23 offender is found ineligible for participation in a drug
24 court program under this Act, the case of that offender

1 shall be processed by the Federal district court under the
2 applicable rules of procedure and sentencing.

3 (d) REQUIREMENTS FOR DRUG PROGRAM PARTICI-
4 PANTS.—Each eligible offender shall understand, sign,
5 and acknowledge understanding of drug court documents,
6 including—

7 (1) a waiver of the right of the offender to a
8 speedy trial;

9 (2) a written plea agreement that sets forth the
10 offense charged, the sanction to be imposed in the
11 event of a breach of the agreement, and the penalty
12 to be imposed, if any, in the event of a successful
13 completion of the drug court program, except that
14 incarceration may not be imposed upon successful
15 completion of the program;

16 (3) a written treatment plan that is subject to
17 modification at any time during the drug court pro-
18 gram;

19 (4) a written performance contract requiring
20 the offender to enter the drug court program as di-
21 rected by the court and participate until completion,
22 withdrawal, or removal by the court; and

23 (5) a limited applicability waiver of confiden-
24 tiality for information relating to the treatment pro-
25 gram of the offender, and progress in that program,

1 limited only to agencies and parties participating in
2 the drug court program, and agencies and parties
3 participating in oversight of the case of the offender
4 by the drug court.

5 **SEC. 5. DRUG COURT OPERATIONS.**

6 (a) IDENTIFICATION OF DRUG PROGRAM PARTICI-
7 PANTS.—The Office of the United States Attorney office
8 in a Federal drug court, through the Office, shall establish
9 procedures for the identification of eligible offenders not
10 later than 30 days after the date of arrest of the alleged
11 offender.

12 (b) PARTICIPANT FITNESS EXAMINATION.—A
13 United States Attorney, defense counsel, and a treatment
14 professional affiliated with the drug court program in
15 which the offender would be placed, shall separately con-
16 duct investigations regarding the eligibility of an offender
17 for inclusion in the drug court program. Upon a finding
18 by any of the examining parties that the offender is ineli-
19 gible to participate in the drug court program, the alleged
20 offender shall be subject to prosecution under the applica-
21 ble rules of procedure and sentencing.

22 (c) HEARING.—Upon agreement of the prosecutor,
23 defense counsel, and treatment professional that an of-
24 fender is eligible for the drug court program, the pros-
25 ecutor, defense counsel, treatment professional, and of-

1 fender shall appear for a hearing before a drug court
2 judge, who shall receive testimony from each of the exam-
3 ining parties.

4 (d) JUDICIAL DISCRETION.—Upon a finding by the
5 judge that the offender is eligible for inclusion in the drug
6 court program, the judge shall obtain from the offender
7 all appropriate drug court documents, and the offender
8 shall immediately be removed to the custody of the drug
9 treatment program. Should the offender not agree to any
10 of the conditions of participation in the drug court pro-
11 gram, the offender shall be subject to prosecution under
12 the applicable rules of procedure and sentencing.

13 (e) DRUG COURT RESPONSIBILITIES.—The drug
14 court shall—

15 (1) assign to the drug court program responsi-
16 bility over all treatment, supervision, education, job
17 skills training, and other ancillary services incidental
18 to the program;

19 (2) hold regular hearings, attended by the
20 judge, prosecutor, defense counsel, and treatment
21 professional to assess the progress of the offender
22 within the drug court program; and

23 (3) assess any and all disciplinary sanctions,
24 penalties, and fines resulting from a violation by the
25 offender of the drug court program plea agreement.

1 (f) DISCIPLINARY SANCTIONS.—The drug court shall
 2 establish methods for measuring application of discipli-
 3 nary sanctions, which may include—

4 (1) short term confinement;

5 (2) reintroducing the offender into the drug
 6 court program after a disciplinary action for a minor
 7 violation of the treatment plan; and

8 (3) removal from the drug court program and
 9 reinstatement of the criminal case.

10 (g) DRUG COURT RECORDS.—All drug courts shall
 11 maintain records regarding rates of recidivism, relapses,
 12 restarts, sanctions imposed, and incentives given. All such
 13 data shall be collected and reported annually by the Office.

14 (h) ADMINISTRATIVE FEES.—For each offender ad-
 15 mitted to the drug court program, the drug court shall
 16 pay to the drug court program an amount agreed upon
 17 at the outset of the relationship between the drug court
 18 and drug court program. This amount shall represent pay-
 19 ment for the cost of treatment, supervision, rehabilitation,
 20 education, job skills training, and other ancillary services
 21 that the program of the offender shall require.

22 **SEC. 6. DRUG COURT PROGRAM PARTICIPANT SUPPORT.**

23 (a) IN GENERAL.—Each drug court program shall
 24 provide all participating offenders with a personalized pro-
 25 gram, including elements of treatment, supervision, reha-

1 bilitation, education, and job skills training, and other an-
2 cillary services that the program of the offender shall re-
3 quire.

4 (b) PARTICIPANT DEVELOPMENT.—Each drug court
5 program shall ensure, at a minimum—

6 (1) strong linkage between all agencies partici-
7 pating in the drug court program, and the drug
8 court judge, prosecutor, and defense counsel respon-
9 sible for oversight of the case;

10 (2) access for all participating agencies to infor-
11 mation on the progress of the offender within the
12 program, notwithstanding normally confidential
13 treatment and counseling information;

14 (3) vigilant supervision and monitoring proce-
15 dures;

16 (4) random substance abuse testing not less
17 frequently than weekly;

18 (5) provisions for noncompliance, modification
19 of the treatment plan, and revocation proceedings;

20 (6) availability of residential treatment facilities
21 and outpatient services; and

22 (7) methods for measuring performance-based
23 effectiveness of the services of individual treatment
24 providers.

1 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

2 Subject to an appropriations Act, there is authorized
3 to be appropriated for each of fiscal years 2000 through
4 2004, the following amounts:

5 (1) \$15,000,000, to the Office, to carry out a
6 pilot program to establish a Federal drug court in
7 each of 10 cities in the United States that are statis-
8 tically considered high drug crime areas.

9 (2) \$5,000,000 to the Department of Justice,
10 for additional prosecutorial resources, including per-
11 sonnel, dedicated to drug enforcement in each of the
12 10 cities in which a Federal drug court is estab-
13 lished under this Act.

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